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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,094	04/13/2004	Hengsheng Li	040409-01	3093

7590

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EXAMINER

COCKS, JOSIAH C

ART UNIT

PAPER NUMBER

3749

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Pha

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/709,094		LI, HENGSHENG	
	<b>Examiner</b>		<b>Art Unit</b>	
	Josiah Cocks		3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 April 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/13/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because the drawings include lines, numbers, and letters that are on uniformly thick and well defined (see 37 CFR 1.85(l)) and include unacceptable copy machine marks (see 37 CFR 1.84(e)).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 is replete with references to specific components and their operation not previously identified in the claims. For instance; in line 3, the device power; in line 4, said magnetic band; in line 5, said sensor board; in line 6, said reed switch; in line 7, said relay; in line 7, said electromagnetic valve; in line 13, said handle; and in line 14, said hand control valve. There is insufficient antecedent basis for any of these limitations in the claim. The examiner is unable to perform an examination on the merits based on the initial portion of the method relating to the magnetic operation. However, the second portion, i.e. the alternative operation using a handle has been regarded as reciting a handle and a hand control valve and has considered as such for the purpose of an examination on the merits. Applicant should review and correct all portions of this claim, and any other, for components or steps that lack proper antecedent basis.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,503,502 to Chapin ("Chapin") (cited by applicant).

Chapin discloses in the specification and figures 1-9 an invention in the same field of endeavor as applicant's invention and as described in applicant's claims 1, 6, and 7. In particular, Chapin discloses a stir-fry cooking device including a apparatus (52) for controlling gas in a gas burner that is operated manually by hand by operation of a hand lever to control the level of heat (see col. 3, lines 21-40).

6. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent no. 2,169,696 to Hotchkiss ("Hotchkiss").

Hotchkiss discloses in the specification and figures 1-15 an invention in the same field of endeavor as applicant's invention and as described in applicant's claims 1-7. In particular, Hotchkiss shows an apparatus (see Fig. 1) for controlling gas in a gas burner to achieve desirable timing and volume of heat that is operated either manually by hand or automatically through magnets (see at least page 2, lines 25-47 and page 3, lines 26-45). Hotchkiss further shows that the control device includes a magnetic objects/magnets (54, 34, 36), a sensor board/circuit (Fig. 12), a relay (58), an electromagnetic valve (22), a hand control unit with a lever/handle (136), and a magnetic detecting device that includes a switch (see at least page 4, lines 21-54).

In regard to the recitation in the preambles of the claims that the apparatus is used for stir-fry cooking (claim 1), the method is for stir fry cooking (claim 6), and the device is a stir-fry cooking system (claim 7), these recitations are not considered to limit the claims.

It has been held that if the body of a claim fully and intrinsically sets forth all of the limitations of the claimed invention, and the preamble merely states, for example, the purpose or intended use of the invention, rather than any distinct definition of the claimed invention's limitations, then the preamble is not considered a limitation and is of no significance to claim construction. *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165 (Fed. Cir. 1999); see also MPEP 2111.02. Further, A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Lastly, a preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claims does not depend on the preamble for completeness but, instead, the process steps of structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

In this case, the heater and control structure of Hotchkiss operates a gas burner, that would be capable of operating as a stir-fry cooker and for the intended purpose of stir-fry cooking. Further, as noted above, the device of Hotchkiss includes all the structure in the body of applicant's claims and operates to control the gas burner as recited. Accordingly, applicant's

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recitations regarding stir-fry cooking are not regarded as limiting and as such, applicant's claims do not distinguish over the device and method disclosed in Hotchkiss.

### *Conclusion*

7. This action is made non-final. A THREE (3) MONTH shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent Nos. 2,939,524 ( Mathis et al), 3,468,298 (Teague et al.), 5,388,984 (Meslif), U.S. Patent Application Publication 2003/0192530, and foreign patents EP 0 635 680 and JP 60-66715 are cited to further show the state of the art concerning gas burner control.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (571) 272-4874. The examiner can normally be reached on weekdays from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg, can be reached at (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Any questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

jcc  
October 31, 2005

  
JOSIAH COCKS  
PRIMARY EXAMINER  
ART UNIT 3749